

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Proposed Revision of Maximum
Collection Amounts for Schools and
Libraries and Rural Health Care
Providers

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CC Docket No. 96-45
DA 98-872

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF GTE

Dated: May 22, 1998

GTE Service Corporation and its affiliated
domestic telephone operating, wireless, and
long distance companies

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COMMENTS OF GTE

GTE Service Corporation and its affiliated domestic telephone operating, wireless and long distance companies¹ (collectively, "GTE") respectfully respond to the Common Carrier Bureau's Public Notice DA 98-872 ("Notice") seeking comments on its proposed

¹ These comments are filed on behalf of GTE's affiliated domestic telephone operating companies, GTE Wireless Incorporated, and GTE Communications Corporation, Long Distance Division. GTE's domestic telephone operating companies are: GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., and Contel of the South, Inc.

revision of the maximum collection amounts for schools and libraries and rural health care providers.²

I. INTRODUCTION AND SUMMARY

GTE objects to the Bureau's proposal for setting the maximum collection amounts for schools and libraries and rural health care providers for the calendar year 1998 for four reasons. First, the Bureau's proposal contains support for non-telecommunications goods and services. Second, the proposal to use interstate access charge reductions to offset the schools, libraries and rural health care universal service funds is inappropriate because interstate access charges do not contain implicit support for the provision of non-telecommunications goods and services. Third, the Bureau's plan does not reconcile available funds with schools, libraries and rural health care providers' demand. And, fourth, the proposal is not competitively neutral.³

² GTE's comments in no manner prejudices its positions set forth in its appeals of the Commission's universal service or access charge reform orders. See *Texas Office of Public Utility Counsel v. F.C.C.*, No. 97-60421 (5th Cir.) ("*Texas Ofc. Of Pub. Util. Counsel*"); *Southwestern Bell Tel. Co. v. F.C.C.*, No. 97-2618 (8th Cir.) ("*Southwestern Bell*"). As fully set forth in GTE's briefs before those courts, the Commission's universal service and access charge reform orders should be vacated. Unless the Commission were to vacate these orders and comply with the statutory requirements to eliminate implicit subsidies and establish an explicit and sufficient universal service funding mechanism supported by all telecommunications carriers on a truly equitable and nondiscriminatory basis, the instant proceeding does not and cannot cure the fatal defects its in prior orders.

³ In view of the extensive overlap between concerns expressed in these comments and concerns expressed by GTE in its comments filed May 15 in CC Dockets No. 96-45 and 97-160, DA 98-715 (the "*May 15 comments*"), GTE incorporates the *May 15 comments* by reference.

II. GTE OBJECTS TO THE BUREAU'S PROPOSAL TO INCLUDE SUPPORT FOR NON-TELECOMMUNICATIONS GOODS AND SERVICES.

In its December 19, 1996 comments in response to the Joint Board's Recommended Decision, AT&T (at 20) foresaw that "the Board's proposal would dramatically increase the size of the USF and therefore appear not to be 'economically reasonable.' Internet access and inside wiring could account for approximately half of the \$2.25 billion fund for schools and libraries alone. The inclusion of subsidies that will increase USF requirements by this magnitude could threaten public support for the entire system."

In its January 26, 1998 comments on the Report to Congress, GTE stated (at iii) that "the Act expressly limits universal service support to telecommunications services, which do not include Internet access and inside wire. It has been estimated that the provision of these services, alone, would deplete nearly half of the available fund for schools and libraries."

Based on information provided in Commissioner Furchtgott-Roth's dissenting statement (at 4) to this Notice, these predictions have come to pass. The combined total demand for Internet access (\$88 million) and internal connections (\$1.28 billion) accounts for approximately two-thirds of the total demand received to date and dwarfs the demand for discounts for telecommunications services of \$656 million.

III. THE BUREAU'S PROPOSAL DOES NOT ESTABLISH AN EXPLICIT AND SUFFICIENT FUND FOR SCHOOLS, LIBRARIES AND RURAL HEALTH CARE PROVIDERS; AND MISDIRECTS THE USE OF ACCESS CHARGE REDUCTIONS TO PURPOSES UNRELATED TO HIGH COST SUPPORT.

In its May 8, 1997 Order on Universal Service ("Universal Service Order"),⁴ the Commission found that "unlike Commission programs for high cost and low-income assistance...there is no existing program to help us estimate the cost of funding the support program we adopt." The Commission did not propose that new funding of discounts to schools, libraries and rural health care providers be offset by interstate access charge reductions.⁵ In fact, such a recommendation would have been totally inappropriate because current "interstate ... access charges are set relatively high in order to cover certain loop costs not recovered through local rates,"⁶ not the costs of non-telecommunications goods and services.

The Bureau's objective is to provide support to schools, libraries and rural health care providers in a manner that does not require consumers' rates to rise, and without causing rate churn. These objectives cannot be accomplished at all, and certainly not

⁴ Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, FCC 97-157, 12 FCC RCD 8776, (released May 8, 1997) ("Universal Service Order") at paragraph 530.

⁵ Universal Service Order at ¶15. See, e.g., Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, CC Docket Nos. 96-262 *et al.*, *First Report and Order*, FCC 97-158, 12 FCC Rcd 15982, 15985 (released May 16, 1997) ("Access Reform Order"). In its Access Reform Order, the Commission determined that the "federal universal service support received by ILECs be used to satisfy the interstate revenue requirement collected through interstate access charges." In other words, for every dollar of support received, the ILECs would be expected to reduce interstate access charges a dollar.

⁶ Universal Service Order at ¶11.

the way proposed by the Bureau. Specifically, GTE cannot endorse the Bureau's proposal to implement a gradual phase-in of the schools, libraries and rural health care universal service support mechanisms taking advantage of, and reflecting, the timing of access charge reductions. Conceptually, the problem with the Bureau's plan is that it proposes to offset its schools, libraries and rural health care fund needs with scheduled access charge reductions which have no relevance to the provision of non-telecommunications goods and services. The associated costs of non-telecommunications goods and services are not components of interstate access charges today.

Instead of sending the dollars produced by access charge reductions to a use that would serve the purpose of funding high cost support, as proposed the funds would be arbitrarily misdirected to a purpose totally unrelated to high cost support. The result is completely arbitrary and certain to subvert the functioning of the entire system designed to provide universal service support.

IV. THE BUREAU'S PLAN DOES NOT ADDRESS THE ENTIRE ESTIMATED DEMAND FROM SCHOOLS, LIBRARIES AND RURAL HEALTH CARE PROVIDERS.

Using an offset in interstate access charges, the Bureau's proposed contribution level for the third and fourth quarters would result in total collections of \$1.67 billion for the 1998 calendar year but still would be inadequate to fund the estimated demand of \$2.02 billion. The Notice fails to address how this deficiency will be resolved and further states that the Bureau does not seek comment on revising the \$2.25 billion annual cap. It is incumbent upon the Bureau to address the disparity between the demand for and the availability of funding and to resolve the deficiencies in funding without implicating

interstate access charges any further than it already has for non-telecommunications services.

In its Notice, the Bureau sought comment on adjusting the maximum amounts that may be collected and spent during the initial year of implementation in order to ensure that collection rates do not exceed access charge reductions and to prevent rate churn for subscribers. The Bureau emphasized that any adjustments should not impact the level of support available to the most economically disadvantaged schools and libraries, and sought comment on ways to ensure that those entities receive adequate support.

The Bureau's proposal does not address the estimated demand of schools, libraries and rural health care providers who believed that up to \$2.25 billion would be available in the initial year of the program. While the Bureau now estimates demand of \$2.02 billion, it proposes to collect only \$1.67 billion, a difference of \$350 million which is never dealt with or explained.

The Bureau proposes to increase contributions as much as possible without increasing consumer rates. It has proposed an indefensible plan to offset entirely the anticipated access charge reductions and associated consumer benefits that would take effect on July 1, 1998. The Bureau's focus is misguided. Aside from the question of whether non-telecommunications services should be funded under the schools and libraries program, the Bureau appears to be abdicating responsibility for establishing a contribution mechanism that will cover the \$350 million shortfall that is reflected in the Bureau's own analysis of the demand of schools, libraries and rural health care providers.

V. THE BUREAU'S PROPOSAL IS NOT COMPETITIVELY NEUTRAL.

The Bureau's scheme to raise contributions only to the extent that such increases do not exceed anticipated reductions in access charges, and thus avoid accountability for raising consumers' rates, fails in another way. Under the Bureau's proposal, ILECs, wireless carriers, paging companies and others who do not pay interstate access charges will not experience the benefit of access charge reductions against which to balance their higher universal service contribution fees. These carriers will be required to bill their customers higher rates. This is clearly not a competitively neutral mechanism. This makes no provision for the fact that, by the Bureau's own estimates, the IXC's are directly or indirectly responsible for paying 82.5 percent of all contributions, while wireless carriers and others pay the remaining 17.5 percent without the benefit of access charge reductions against which to balance their higher universal service contribution fees.

In any case, the Bureau's proposal will not disguise an increase in schools and libraries funding by customers of these other telecommunications service providers. However, the solution is not to establish a separate mechanism for those carriers who do not pay access charges and therefore receive no benefits from the proposed access charge reductions. The answer is to establish a competitively neutral universal service recovery mechanism as envisioned by the Telecommunications Act of 1996 (47 U.S.C. section 254), a mechanism that does not create artificial distinctions among carriers that send false pricing signals to customers. For this reason alone, the proposal put forth by the Bureau is not acceptable.

Finally, there has been much discussion and expressed concern about providing clear and accurate information regarding universal service surcharges to consumers on

telephone bills. Explicit funding requires an explicit explanation to consumers. As Commissioner Tristani stated in her separate statement to this Notice, "I read the relevant paragraph of the [May 8, 1998] Report to Congress as indicating our insistence on truthful, as opposed to deceptive or inaccurate, descriptions of telephone-related charges."

VI. CONCLUSION

At a minimum, the Commission should ensure that the demand for discounts on all telecommunications services be honored and not apportioned. In his dissenting statement (at 4), Commissioner Furchtgott-Roth proposed that the Commission reduce the third and fourth quarter "contribution rate for schools and libraries" from its current level of \$325 million to \$25 million per quarter. GTE supports this proposal because it will provide sufficient funds -- \$675 million -- to meet the estimated demand for all telecommunications services in 1998. Further, it will ensure that the Bureau's proposal to offset funding of the new schools, libraries and rural health care programs with interstate access charge reductions is not adopted, and therefore does not create or perpetuate implicit funding of these programs.

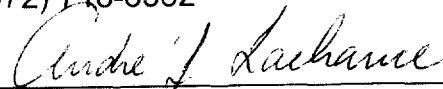
Dated: May 22, 1998

Respectfully submitted,

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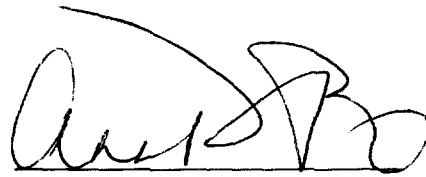


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Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Comments of GTE" have been mailed by first class United States mail, postage prepaid, on May 22, 1998 to all parties of record.

A handwritten signature in black ink, appearing to read "Ann D. Berkowitz", written over a horizontal line.

Ann D. Berkowitz